

GENERAL PERMIT 40

FOR DISCHARGES OF DREDGED AND FILL MATERIAL OR EXCAVATION IN STREAMS IN THE STATE OF UTAH IN CASES WHERE A STREAM ALTERATION PERMIT HAS BEEN ISSUED BY THE STATE ENGINEER

Effective Date:
January 23, 1998

Expiration Date:
January 22, 2003

The District Engineer, Sacramento District, U. S. Army Corps of Engineers (Corps), hereby reissues General Permit 40 for the discharge of dredged or fill material or excavation in streams in the state of Utah in cases where a stream alteration permit has been issued by the state engineer.

AREA OF COVERAGE

This general permit applies to all streams in the state of Utah.

SCOPE OF AUTHORIZATION

This general permit establishes the procedure for Department of the Army authorization of certain types of discharges of dredged or fill material and excavation in streams in the state of Utah in cases where a stream alteration permit has been issued by the state engineer. Types of work to be considered for authorization under this general permit include, but are not limited to, bank protection projects, road and bridge construction or repair projects, the construction of intake and outfall structures, utility line crossings and the construction of boat ramps, dikes and cofferdams. Discharges or excavation in lakes, wetlands and other waters of the United States other than streams will not be authorized under this general permit and will require an alternative form of Department of the Army authorization.

APPLICATION AND REVIEW PROCEDURE

The state engineer and the Corps have developed a joint application form for use in applying for a stream alteration permit and authorization to complete work under this general permit. The application form can be obtained from and submitted to either agency at the addresses listed below.

Copies of completed applications will be circulated by the state engineer as public notice of the proposed work. Applications will be forwarded to the Corps, the Fish and Wildlife Service, the Environmental Protection Agency, the Utah Division of Wildlife Resources, the Utah Division of Water Quality, the State Historic Preservation office, local agencies, adjacent property owners and the general public. Normally, twenty days will be allowed for review and comment. The Corps retains the right to require an individual permit for any project which might otherwise be authorized under this general permit. The decision to require an individual permit will normally be based on the probability that the project will result in more than minimal adverse impacts, either individually or cumulatively. In evaluating the need for an individual permit, the Corps will give full consideration to concerns of the Environmental Protection Agency and the Fish and Wildlife Service that are within their scope of responsibility. The Corps will review each application for compliance with the Section 404(b)(1) guidelines. Any proposal which does not comply with the guidelines will not receive Department of the Army authorization. The state engineer will notify the Corps of any proposal which generates considerable public interest or conflict.

ADDITIONAL INFORMATION

This general permit is reissued under authority of Section 404(e) of the Clean Water Act (33 USC 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).

Section 401 water quality certification for reissuance of this general permit has been issued by the Utah Division of Water Quality, eliminating the need to request water quality certification for individual proposals.

SPECIAL CONDITIONS

1. No proposal which will affect a species listed by the Fish and Wildlife Service, pursuant to the Endangered Species Act, as threatened or endangered, or its critical habitat, will be authorized under this general permit.
2. No proposal which will affect historic properties listed on or determined eligible for the National Register of Historic Places will be authorized under this general permit.
3. Proposals involving discharges or excavation in wetlands, lakes or other waters of the United States other than streams will not be authorized under this general permit.
4. Proposals which will adversely affect recreational or commercial navigation will not be authorized under this general permit.
5. Proposals which will involve the relocation of stream bed material for purposes such as creating a more efficient channel cross-section, providing bank protection for erosion control or realigning a stream channel will not be authorized under this general permit until the Corps completes additional review and coordination with interested agencies. The excavation of gravel bar material down to the low water line and the placement of the excavated material against an eroding bank as bedding for suitable riprap is permissible, provided the material is lifted from the gravel bar and directly deposited against the eroding bank; the use of heavy equipment to push the material against the eroding bank is not permissible.
6. Disturbed soils must be revegetated and stabilized at the completion of each authorized project.
7. Fill materials must be clean and free of contaminants in toxic quantities.
8. The use of unsuitable fill material such as vehicle bodies, farm machinery, appliances and other metal debris, asphalt, biodegradable construction debris and tires is prohibited.
9. All conditions of the stream alteration permit issued by the state engineer must be adhered to.

GENERAL CONDITIONS

1. Permittees must maintain fills or structures authorized under this general permit in good condition and in conformance with the terms and conditions of this general permit.

2. If any previously unknown historical properties or archaeological artifacts are identified during the completion of authorized work, work must stop and the Corps must immediately be notified. Work may not resume until the Corps has complied with Title 33, CFR, Appendix C.

3. Should the Division of Water Quality choose to issue individual water quality certification for any proposal, the conditions of that certification must be adhered to.

4. The Corps reserves the right to inspect any authorized work at any reasonable time to assure that it is being or has been completed in accordance with the terms and conditions of this general permit.

Authorizations issued under this general permit do not obviate the need to obtain any other required Federal, state or local authorizations. Authorizations do not grant any property rights or exclusive privileges nor do they authorize injury to the property or rights of others. Authorizations do not convey the right to interfere with any existing or future Federal project.

In issuing authorizations under this general permit, the Federal Government does not assume any liability for the following: Damages to authorized projects, or uses thereof as a result of other permitted or unpermitted activities or natural events; damages to persons or property caused by authorized activities; damages to authorized projects, or uses thereof, as a result of current or future activities undertaken by or on behalf of the United States in the public interest; design or construction deficiencies associated with the authorized work; damage claims associated with any modification, suspension or revocation of individual authorizations.

In issuing authorizations under this general permit, the Corps must rely on applicant-supplied information. Should it be determined that any authorization was based on false, incomplete or inaccurate data, the Corps reserves the right to reevaluate the case and to suspend, modify or revoke the authorization. Failure to comply with the terms and conditions of an authorization is also grounds for suspension, modification or revocation as is the discovery of relevant information not considered during the initial application review.

The Corps will reevaluate the terms and conditions of this general permit at any time it is deemed necessary to protect the public interest. Such a reevaluation will occur at least once every five years.

For additional information or to obtain application forms, contact the Corps or the state engineer.